



Appeal Decision

Site visit made on 6 February 2024

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2024

Appeal Ref: APP/K3605/W/23/3323135

Cobham United Church, Stoke Road, Cobham, Elmbridge KT11 3BD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Hutchison 3G UK Limited against the decision of Elmbridge Borough Council.
 - The application Ref 2022/3707, dated 9 December 2022, was refused by notice dated 22 February 2023.
 - The development proposed is described as the installation of a new 15m-high telecommunications monopole and 3no. ground-based equipment cabinets, and ancillary development thereto.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The address in the banner heading above is taken from the application form. The appeal site is on the opposite side of the highway to the church, which I have had regard to in determining this appeal.
3. Since the appeal was lodged the revised National Planning Policy Framework (2023) (the Framework) was published on 19 December 2023. I have given the Council and Appellant the opportunity to comment upon this and taken any comments into account in determining this appeal. The numbering below reflects the new Framework.
4. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require Local Planning Authorities to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. I have determined this appeal on the same basis.

Planning Policy

5. Part 16 of the GPDO establishes that the proposal is permitted development, and so is accepted in principle by virtue of the legislation. There is no requirement to have regard to the development plan as there would be for any development requiring express planning permission. However, I have had

regard to policies of the Elmbridge Core Strategy (2011) (the ECS), the Elmbridge Local Plan Development Management Plan (2015) (the DMP) and the Framework as cited in the Council's decision notice, as material considerations.

Main Issues

6. The main issues are:

- the effect of the siting and appearance of the installation upon the character and appearance of the area; and,
- if any harm would occur, whether it would be outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

Siting and appearance

7. The character and appearance of the area is one including mixed residential development and occasional other buildings, of one to three storeys often within generous plots, with verges of various widths, occasional amenity areas, a variety of age of trees, and hedgerows. The highways are generally single carriageway lined by a limited amount of street furniture that includes some signage, telegraph poles, lampposts and kiosks.
8. The appeal site is part of a wider section of grass verge between the Stoke Road footway and neighbouring fenced garden boundaries that includes some young hedging, trees and two slabs under which I could see was a flowing highway drain or waterway. It is on a well-trafficked section of highway that appears to be a main route through the settlement, close to the accesses of a flatted development, church premises, and residential street. By virtue of its prominence and its verdant and open appearance the appeal site makes a positive contribution to the character and appearance of the area.
9. The surrounding and some wider trees provide structural landscape features, but the mast would look very different to them. In the immediate vicinity of the site, trees are relatively young and of a limited height and spread. The mast would be positioned well away from the more significant trees in the area so these more mature trees would be only of a very limited wider screening benefit. Many of the trees are also deciduous which would reduce the degree of screening they provide. The mast would still be significantly higher than many of these, particularly those within its closest visual context and it would also be significantly higher than many surrounding buildings. Therefore, it would clearly break the skyline and form a highly dominant feature.
10. The mast has been reduced in width from a previous application¹ and from certain vantage points the mast would be viewed in the context of some limited much smaller street furniture, some of which are vertical man-made features. However, the approximately 15 metre height of the mast would still be considerably greater than the height and of a much wider girth, than surrounding street furniture. Its appearance, and its siting on a relatively narrow section of verge, would result in the mast appearing as a prominent and highly dominant man-made structure, significantly out of scale with other

¹ Ref. 2022/2028.

furniture. In this context I cannot conclude that the proposal constitutes high-quality design as sought by CS17 of the ECS.

11. There are understood to be options for colour finishes for the mast and equipment. However, even with alternative colourings the siting and appearance of the mast would be prominently visible as a dominant, incongruous and strident feature. This would be apparent for highway users for some significant lengths of Stoke Road east and west, parts of Oxshott Way, a number of residential properties to the north and south of Stoke Road, and users of the church and car park.
12. Those appeal decisions I am referred to in which the Inspectors found limited harm or a largely neutral effect upon character and appearance are noted². However, for this appeal scheme, in its surrounding context, I cannot make the same finding for the reasons set out. Though masts may be becoming more common place in the wider area³, I am not provided with substantive evidence they can be regarded to be common or part of the prevailing in the appeal site surrounds, and the mast would still appear as a strident and harmful feature.
13. Therefore, for the reasons set out above, the siting and appearance of the mast would be prominent, at odds with, and result in significant harm to the character and appearance of the area.
14. While not determinative in respect of an application for prior approval, the proposal conflicts with Policy CS17 of the ECS and Policies DM2 and DM16 of the DMP. Amongst other things these expect development has regard to local character, responds to positive features, integrates sensitively with the locally distinctive townscape and landscape, preserves or enhances local character, the public realm and street scene, and telecommunications apparatus should not have a significant adverse effect upon the visual amenities of the area. It would also conflict with paragraph 135c) of the Framework insofar as this seeks that development should be sympathetic to local character, including the surrounding built environment and landscape setting.

Suitable alternatives

15. The growth of electronic communications networks is supported in the Framework. Paragraph 118 explains that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Decisions should support the expansion of electronic communications networks, including next generation mobile technology. Paragraph 122 of the Framework states that authorities should not question the need for an electronic communications system.
16. The appellant states there is a need for a mast as part of the 3G, 4G and 5G⁴ network to provide new and enhanced coverage and capacity. In particular, 5G cells typically have a smaller radius, and the mast height and width are the minimum capable of providing the required coverage and functionality. There is a need to provide increased network capacity due to data use growth and dependency, with economic, social, health, educational, well-being, and sustainability benefits. In this regard the proposal would be consistent with some policy objectives of the DMP and ECS.

² APP/A3655/W/19/3234027.

³ APP/K3605/W/19/3243927.

⁴ Page 26 of the Supplementary Information Form by Dalcour Maclaren.

17. I note the extracts of planning appeal decision letters⁵ balancing the effects and benefits of proposals. These are at different appeal sites, often different authority areas, assessed upon their own merits and impacts, based upon the evidence submitted. However, the GPDO is clear that the only considerations should be siting and appearance. The social and economic benefits are effectively recognised by the grant of permission under Article 3(1) of the GPDO.
18. The appellant informs a sequential approach to site selection was undertaken within the designated search area. This had regard to the scope for a) mast and site sharing, b) installation on a building or structure, and c) ground-based installations. No options for a) and b) were found. However, the evidence in respect of the application of the sequential approach is very brief. From what I saw, its conclusions in respect of b) are understandable, but notably it is not explained whether or not the sharing of a mast approximately 500m west on Stoke Road is feasible.
19. I have considered the location and information shown by the map of the intended cell/target area in the appeal submission⁶. However, it is unclear what this is showing, and the application of a suggested target search radius is not explained. I also cannot recognise the pattern of surrounding development on it from what I saw. The Council questioned whether the map is of the relevant area, but despite the opportunity to do so, the appellant has not clarified this matter, disputed or addressed the Council's concern.
20. Seven other locations in the area are discounted, although the information submitted concerning their assessment is brief and the precise parameters applied to consider other sites are not clear. The appellant has discounted them due to, amongst other things, too much or lack of trees and vegetative cover or screening, visibility splays, footway widths, ground elevation, and overlooking by residential properties.
21. However, based upon what I saw and the substantive evidence before me, I can only clearly understand why 1, 4 and 6 (D4⁷) would be ruled out for the reasons set out by the appellant. Some of the others had verges or amenity grassland of a comparable or considerably greater width and size than the appeal site, appeared to have wide and open splays, and greater wider tree cover. It is also not clear why large parts of the search area are specifically discounted. Therefore, it is not adequately explained why other sites and areas are ruled out or deemed unsuitable for such a proposal.
22. There is certainly no requirement to seek the best feasible siting or the least harmful option⁸, and options for siting the development are limited by technical and operational constraints. However, I have found the appellant's evidence in respect of the need for the siting taking into account alternatives, very limited and lacking clarity. I am not satisfied that installing a visually obtrusive mast at the appeal site represents the only feasible means by which coverage needs could be met or there is an absence of more suitable alternative sites that may

⁵ APP/E2205/W/20/3261389, APP/G4240/W/18/3201704, APP/L1765/W/18/3197522, APP/J4423/W/21/3268791, APP/R5510/W/21/3269903, APP/M3835/W/21/3272207, APP/Q3305/W/18/3206555, APP/L1765/W/18/3197522, APP/M5450/W/17/3180345, APP/R5510/W/16/3143922.

⁶ Figure 1, Page 8 of the Planning Appeal Statement of Case by Dot Surveying (26 May 2023).

⁷ Planning Appeal Statement of Case reference.

⁸ APP/K3605/W/19/3243927, APP/J4423/W/17/3188962 and APP/B5480/W/20/3251086.

be reasonably available to meet the needs. As such, the harm I have identified is not outweighed by the need for the installation to be sited as proposed.

Other Matters

23. There is a highway drain or underground water course under part of the verge not referred to in evidence, and I have noted the strongly held views in representations in respect of matters such as the effects upon the living conditions of nearby occupiers and the highway implications of the siting and appearance. However, as I am dismissing this appeal, I have not considered these matters including the appellant's submitted decision letter extract referring to living conditions, in detail⁹. I am informed the proposal has been designed to comply with the International Commission on Non-Ionizing Radiation Protection (ICNIPR) guidelines, which based upon the substantive evidence before me, would be a neutral matter.

Planning Balance and Conclusion

24. The siting and appearance of the mast would be significantly harmful to the character and appearance of the area. While options for its siting are limited by technical and operational constraints, the evidence does not demonstrate that there are not alternative suitable sites or solutions available which would be less obtrusive and harmful. Overall, the harm to the character and appearance of the area from its siting and appearance, outweighs the benefits and evidence relating to the need for the siting as proposed and alternative sites and options. Therefore, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR

⁹ APP/K2610/W/21/3280694.